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8813

# United States District Court

## Southern District of Ohio at Cincinnati

UNITED STATES OF AMERICA

v.

**James R. Howard****JUDGMENT IN A CRIMINAL CASE**Case Number: **1:11-cr-146**USM Number: **69940-061**Richard W. Smith-Monahan, Esq.

Defendant's Attorney

**THE DEFENDANT:**

- ☒ pleaded guilty to count(s): One, Two, Three and Four of the Indictment.  
☐ pleaded nolo contendere to counts(s) \_\_\_ which was accepted by the court.  
☐ was found guilty on count(s) \_\_\_ after a plea of not guilty.

The defendant is adjudicated guilty of these offense(s):

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
See next page.			

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on counts(s) \_\_\_\_.
- ☐ Count(s) \_\_\_\_ (is)(are) dismissed on the motion of the United States.

IT IS ORDERED that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States Attorney of material changes in the defendant's economic circumstances.

August 22, 2012

Date of Imposition of Judgment



Signature of Judicial Officer

SANDRA S. BECKWITH, Senior United States District Judge

Name &amp; Title of Judicial Officer

8/22/12

Date

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**ADDITIONAL COUNTS OF CONVICTION**

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. §§2252(a)(2) and 2252(b)(1)	Receipt of Child Pornography		One
18 U.S.C. §§2252(a)(2) and 2252(b)(1)	Receipt of Child Pornography		Two
18 U.S.C. §§2252(a)(2) and 2252(b)(1)	Receipt of Child Pornography		Three
18 U.S.C. §§2252(a)(4) and 2252(b)(2)	Possession of Child Pornography		Four

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## IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 240 Months on each of Counts One, Two and Three, together with 120 months on Count Four, all terms to run concurrently.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the United States Marshal for this district.

☐ at \_\_\_\_ on \_\_\_\_.

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2:00 p.m. on \_\_\_\_.

☐ as notified by the United States Marshal but no sooner than

☐ as notified by the Probation or Pretrial Services Office.

## RETURN

I have executed this judgment as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

at \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
Deputy U.S. Marshal

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## SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of Life on each count, terms to run concurrently.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the Court.

- ☐ The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- ☒ The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- ☒ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- ☒ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- ☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

## STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer in a manner and frequency directed by the court or probation officer;;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependants and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

## SPECIAL CONDITIONS OF SUPERVISED RELEASE

- 14) Defendant shall register as a sex offender in the Southern District of Ohio before completing any sentence of imprisonment and must keep his registration current in each jurisdiction where he resides, works, and/or attends school, as required by Section 113 of the Adam Walsh Child Protection and Safety Act of 2006 and at the direction of the probation officer. If

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the state of residence is not accepting sex offender registrations pursuant to the Sex Offender Registration and Notification Act (SORNA) and is unable to accept Defendant's registration, he must maintain contact with state registration authorities and his probation officer to determine when his registration can be accepted. If Defendant's supervision transfers to another federal district, Defendant's duty to register under SORNA shall be governed by that district's policy and the laws of that state.

- 15) Defendant shall pay any balance due on any financial obligation imposed by the Court and shall disclose financial information to the Probation Department upon request.
- 16) Defendant is prohibited from gaining access in any manner to any online computer service or to the Internet in any access form, including but not limited to, the World Wide Web, Online Bulletin Board, Internet Relay Chat, or Online File Archive, shall not utilize chat rooms, instant messaging, or send attachments to emails, unless such access and use is required expressly for a class assignment in an accredited educational institution or to carry out a job duty for legal, outside employment.
- 17) Defendant is prohibited from obtaining an account or using any other person or entity's account, with any computer online service or Internet service provider which has the capacity to access the Internet in any manner, unless required for a specific class assignment in an accredited educational institution or as an express job requirement for legal outside employment.
- 18) Defendant shall allow the probation office to install hardware or software on his computer so the use of his computer may be monitored. He will inform other users of the computer of the existence of the monitoring equipment. Defendant shall also abide by the terms of a computer monitoring agreement as instructed by his probation officer.
- 19) Defendant shall have no unsupervised contact with a minor, unless approved in advance by his probation officer. Prior to any approval of any contact with a minor, the probation officer shall confirm that the minor's parent or guardian is aware of the Defendant's prosecution and supervision. This provision does not apply to persons under the age of 18 such as ticket vendors, cashiers, waiters, or similar individuals with whom Defendant must deal in order to obtain ordinary and usual commercial services.
- 20) Defendant is prohibited from loitering where minors congregate, such as playgrounds, arcades, amusement parks, recreation parks, sporting events, shopping malls, swimming pools, and other similar areas.
- 21) Defendant is prohibited from viewing, downloading, possessing or in any other form accessing, any and all pornographic materials whether depicting adults or minors.
- 22) Defendant shall not rent or use a post office box or storage facility without prior approval of the probation officer. If approval is granted, any change in rental or usage must be communicated to the probation officer at least 72 hours before Defendant initiates the change.
- 23) Defendant is ordered to undergo a sex offender evaluation and participate in treatment as directed by the probation officer. Defendant shall submit to a polygraph examination approximately every six months at the direction of the probation officer, and at his expense. Defendant shall sign all necessary releases of information so that treatment providers, probation officers, polygraph examiners, and any other necessary individuals are allowed to communicate openly about the Defendant and his relapse prevention plan.
- 24) Defendant's residence and employment shall be pre-approved by the probation officer and shall comply with state and local laws.

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## CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the Schedule of Payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 400.00	\$ 4,000.00 (\$1,000 on each count)	\$ n/a

- ☐ The determination of restitution is deferred until \_\_. An amended Judgment in a Criminal Case (AO 245C) will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment unless specified otherwise in the priority order of percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>*Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
<u>TOTALS:</u>	\$ ____	\$ ____	

- ☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2500, unless the restitution or fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. §3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. §3612(g).
- ☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived for the ☒ fine ☐ restitution.
- ☐ The interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☒ Lump sum payment of \$ 4,400.00 due immediately, balance due  
[ ] not later than or  
[✓] in accordance with [ ] C, [ ] D, [ ] E, or [✓] F below; or
- B [ ] Payment to begin immediately (may be combined with [ ] C [ ] D, or [ ] F below); or
- C [ ] Payment in equal installments of \$ over a period of , to commence days after the date of this judgment; or
- D [ ] Payment in equal installments of \$ over a period of , to commence days after release from imprisonment to a term of supervision; or
- E [ ] Payment during the term of supervised release will commence within (e.g., 30 or 60 days) after release from imprisonment. The Court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
  
☒ While incarcerated in the Bureau of Prisons, the Defendant shall pay at least \$25.00 per quarter toward his monetary obligations if assigned a non-UNICOR or grade 5 UNICOR job; or at least 50% of his monthly pay if assigned a UNICOR grade 1-4 job. Within thirty days of the commencement of the term of supervised release, the Defendant shall pay his obligations at a rate of at least \$10 per month. The Court will reassess the Defendant's ability to pay from time to time upon the probation officer's recommendation or the Defendant's petition to reassess his ability to pay.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

[ ] Joint and Several (Defendant and Co-Defendant names and Case Numbers, Total Amount, Joint and Several Amount and corresponding payee, if appropriate.):

[ ] The defendant shall pay the cost of prosecution.

[ ] The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

One ASUS Netbook computer with unreadable serial number; one Hitachi 250GB hard drive, serial number 1SD7E55L; one Gateway Laptop computer, serial number GWTC820010X; one Western Digital 320GB hard drive, serial number WXE308ED9020; one Kodak EasyShare CD1013 camera, serial number KCGJX84100103; one SanDisk 4GB SD memory card; all pornographic material, whether depicting adults or minors or both, and all photographs which depict minors, other than photographs of clothed minor members of the Defendant's family.

Payments shall be applied in the following order: (1) assessment; (2) restitution principal; (3) restitution interest; (4) fine principal; (5) fine interest; (6) community restitution; (7) penalties; and (8) costs, including cost of prosecution and court costs.